

FAX COVER SHEET

501 Independence Parkway
Suite 201 - Lake Center I
Chesapeake, Virginia 23320
757-548-2323 Telephone
757-548-2345 Fax
www.bghklaw.net

**RECEIVED
CENTRAL FAX CENTER**

NOV 09 2006

Date: November 9, 2006

To: PTO Central Fax Number for Examiner Philippe Derakshani - Group Art Unit: 3754

Fax Number: 571-273-8300

From:

☐ Beckham, Jonathan
☐ Bowman, Jerry
☐ Bowling, Leigh Anne
☐ Driscoll, Jr., Frank
☐ Green, Edwin
☐ Gregory, Leigh

☐ Hampton, Glenn
☐ Hartwick, Richard
☐ Howell, Melissa
☐ Kelly, Thomas
☐ Mulford, Anthony
☒ Shaddock, Peter
☐ Wooten, Kristi

☐ Bowman, Maria
☐ Colby, Linda
☐ Condon, Gidget
☐ Houston-Scott, Taryn
☐ Kelly-Perriello, Barbara
☐ Phillips, Kimberly
☐ Price, Darlene
☐ Shirley, Pam

No. of Pages: 4
(Incl. Cover Letter)

Special Instructions:

Please see attached

- Fax Cover Sheet (1 page)
- Transmittal Form (1 page)
- Response to Office Action / Restriction Requirement (2 pages)

The information contained in this transmission is intended for the personal and confidential use of the party named above. This message may be an attorney-client communication, and as such, is privileged and confidential. If the reader is not the named recipient, you are hereby notified that you have received this document in error. **If you have received this transmission in error and incurred any expense thereby, we will reimburse you for all reasonable expenses incurred. Thank you.

PTO/SB/21 (09-08)

Approved for use through 03/31/2007. OMB 0651-0031


U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE


Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/821,574	
	Filing Date	April 9, 2004	
	First Named Inventor	Michael M. Noel	
	Art Unit	3754	
	Examiner Name	Derekshand, Philippe	
Total Number of Pages in This Submission	4	Attorney Docket Number	729-020

RECEIVED
CENTRAL FAX CENTER
NOV 09 2006

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks *Response to Election of Species Requirement		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Bowman Green Hampton & Kelly, PLLC		
Signature			
Printed name	Peter A. Shaddock II		
Date	November 9, 2006	Reg. No.	44,331

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Peter A. Shaddock II - Reg. No. 44,331	Date	November 9, 2006

This collection of information is required by 37 CFR 1.6. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED
CENTRAL FAX CENTER

NOV 09 2006
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Confirmation No.: 1895

Michael M. Noell

Group Art Unit: 3754

Application No.: 10/821,574

Examiner: Derakshani, Philippe

Filed: April 9, 2004

Docket No.: 729-020

For: DISPOSABLE POUCH HYDRATION SYSTEM

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This Response to Election of Species Requirement is filed in response to the Office Action mailed October 10, 2006. For purposes of examination in this case, the Applicant elects Species 9, illustrated in Figures 8A-8B, 9A-9C, and 10A-10B, with traverse. Applicant believes that Claims 1-5, 8, 10-11, and 13 are readable on the elected inventive species.

The Office Action stated that Claim 1 is considered generic. Therefore, Applicant believes that the election of Species 9 will require the examination of at least Claims 1-5, 8, 10-11, and 13. Applicant further believes that Figs. 4, 5, and 10C illustrate the subject matter of the elect claims. Additionally, Applicant believes that Fig. 1 illustrates the subject matter of the generic claims.

While a response to the required Election has been given, it is respectfully submitted that the search and the examination of the entire application could be made without serious burden. See MPEP §803, which states "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits,...". It is respectfully submitted that this policy should apply in this application to avoid unnecessary delay and expense to applicant and duplicative examination by the PTO.

Application No. 10/821,574

Therefore, the Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement and to examine all claims in this application.

If the Examiner feels that there is anything further necessary to respond fully to the Office Action, Applicant requests that the Examiner telephone Applicant's undersigned representative at the number below.

Respectfully submitted,



Peter A. Shaddock II
Registration No. 44,331

Date: November 9, 2006

Bowman Green Hampton & Kelly, PLLC
501 Independence Parkway, Suite 201
Chesapeake, VA 23320-5173

Telephone: (757) 548-2323
Fax: (757) 548-2345
E-mail: pshaddock@bghklaw.net